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August 3, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

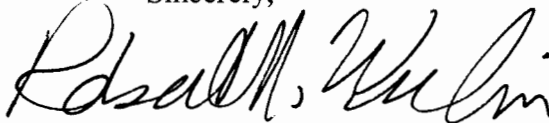
Re: NSTAR Electric Company, D.T.E. 06-40

Dear Secretary Cottrell:

Enclosed for filing is the NSTAR Electric Motion for a Protective Order in the above-referenced case. Also enclosed is a Certificate of Service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert N. Werlin", written in a cursive style.

Robert N. Werlin

Enclosures

cc: Joan Foster Evans, Hearing Officer
Service List

COMMONWEALTH OF MASSACHUSETTS

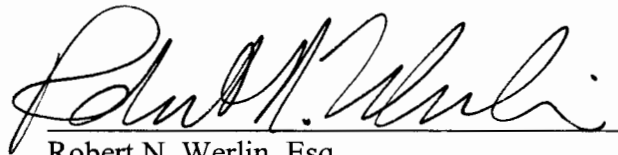
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

_____)
Boston Edison Company, Cambridge Electric
Light Company, Canal Electric Company and
Commonwealth Electric Company d/b/a NSTAR Electric
_____)

D.T.E. 06-40

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document upon the Department of Telecommunications and parties of record in accordance with the requirements of 220 C.M.R. 1.05 (Department's Rules of Practice and Procedures).



Robert N. Werlin, Esq.
Keegan Werlin LLP
265 Franklin Street
Boston, Massachusetts 02110
(617) 951-1400

Dated: August 3, 2006

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

NSTAR Electric Company)))	D.T.E. 06-40
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**MOTION OF BOSTON EDISON COMPANY, CAMBRIDGE ELECTRIC LIGHT
COMPANY, CANAL ELECTRIC COMPANY AND COMMONWEALTH
ELECTRIC COMPANY FOR A PROTECTIVE ORDER**

I. INTRODUCTION

On May 26, 2006, Boston Edison Company (“Boston”), Cambridge Electric Light Company (“Cambridge”), Canal Electric Company (“Canal”) and Commonwealth Electric Company (“Commonwealth”; together, the “Companies”) filed a petition requesting approval from the Department of Telecommunications and Energy (the “Department”), pursuant to G.L. c. 164, § 96, of the proposed merger among and between the Companies to create a single electric company, NSTAR Electric Company (“NSTAR Electric”). The Department docketed the Companies’ filing as D.T.E. 06-40.

At the June 29, 2006 procedural conference, the Department established a discovery deadline of July 26, 2006 for issuing requests for information from NSTAR Electric. Thus far, the Department and the Attorney General have each issued five sets of information requests, Massachusetts Institute of Technology (“MIT”) has issued two sets of information requests, and the Retail Energy Supply Association (“RESA”) and the Cape Light Compact (“CLC”) have both issued one set of information requests. In the Department’s fifth set, particularly Information Request DTE-5-8, and in the Attorney General’s third and fifth sets, particularly Information Request AG-3-1 and Information Request AG-5-2, information was sought that required the Companies to provide the

content of bids received by the Companies for Basic Service.¹ NSTAR Electric requests that a protective order be issued by the Department pursuant to G.L. c. 25, § 5D because the information in the identified information requests is confidential, competitively sensitive and proprietary. NSTAR Electric further seeks that Attachment DTE-5-8, Attachment AG-3-1 and Attachment AG-5-2(b) be withheld from public disclosure and become part of the sealed record in this proceeding.

II. LEGAL STANDARD

Confidential information may be protected from public disclosure by the Department in accordance with G.L. c. 25, § 5D, which states in part that:

The [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be on the proponent of such protection to prove the need for such protection. Where the need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

In interpreting the statute, the Department has held that:

. . . [T]he burden on the company is to establish the need for protection of the information cited by the company. In determining the existence and extent of such need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest.

The Berkshire Gas Company et al., D.P.U. 93-187/188/189/190, at 16 (1994) as cited in Hearing Officers Ruling On the Motion of Boston Gas Company for Confidentiality, D.P.U. 96-50, at 4 (1996).

¹ The confidential information is contained in Attachment DTE-5-8, Attachment AG-3-1 and Attachment AG-5-2(b). These attachments are in the form of the exhibits that are routinely submitted under seal to the Department in support of the Companies' quarterly Basic Service filings. In prior reviews, the Department has not publicly disclosed the details of those exhibits.

In practice, the Department has often exercised its authority to protect sensitive market information. For example, the Department has determined specifically that competitively sensitive information, such as price terms, are subject to protective status:

The Department will continue to accord protective status when the proponent carries its burden of proof by indicating the manner in which the price term is competitively sensitive. Proponents generally will face a more difficult task of overcoming the statutory presumption against the disclosure of other terms, such as the identity of the customer.

Standard of Review for Electric Contracts, D.P.U. 96-39, at 2, Letter Order (August 30, 1996). See also Colonial Gas Company, D.P.U. 96-18, at 4 (1996) (the Department determined that price terms were protected in gas supply contracts and allowed Colonial Gas Company's request to protect pricing information including all "reservation fees or charges, demand charges, commodity charges and other pricing information").

Moreover, the Department has recognized that competitively sensitive terms in a competitive market should be protected and that such protection is desirable as a matter of public policy:

The Department recognizes that the replacement gas purchases . . . are being made in a substantially competitive market with a wide field of potential suppliers. This competitive market should allow LDC's to obtain lower gas prices for the benefit of their ratepayers. Clearly the Department should ensure that its review process does not undermine the LDC's efforts to negotiate low cost flexible supply contracts for their systems. The Department also recognizes that a policy of affording contract confidentiality may add value to contracts and provide benefits to ultimate consumers of gas, the LDC's ratepayers, and therefore may be desirable for policy reasons.

The Berkshire Gas Company et al., D.P.U 93-187/188/189/190, at 20 (1994).

III. ARGUMENT

The data provided in Attachment DTE-5-8, Attachment AG-3-1 and Attachment AG-5-2(b) should be protected from public disclosure because they are based on competitively sensitive bid terms offered to the Companies in response to their Basic Service Requests for Proposals. Disclosure of sensitive bid information to the public would seriously undermine the Companies' Basic Service supply solicitations because allowing bid terms to become public would compromise the highly competitive and confidential nature of the solicitation process. This would, in turn, place the Companies' customers at a disadvantage in future Basic Service supply solicitations to the extent that bidding is either limited generally, or influenced adversely, by the disclosure of wholesale suppliers' proposals.

The Department has consistently protected bid terms from public disclosure historically, because the public release of bid terms discloses the very types of information that the Department has previously and consistently held to be confidential. The Department has recognized that release of bid information would undermine the Companies' negotiating position in the wholesale competitive market, and thus, jeopardize the ability of the Companies to ensure that customers are being served by the lowest cost supply option. See, e.g., Western Massachusetts Electric Company, D.T.E. 99-101, at 3 (2002), citing Boston Edison Company, D.T.E. 99-16 (1999); Western Massachusetts Electric Company, D.T.E. 99-56 (1999). See also Canal Electric Company/Cambridge Electric Light Company/Commonwealth Electric Company, D.T.E. 02-34 (Tr. A at 19 (June 12, 2002)) and Cambridge Electric Light Company, D.T.E. 01-94 (May 9, 2002 Approval by the Department of Amended Motion of

Cambridge Electric Light Company for a Protective Order). In contexts other than Basic Service solicitations, the Department has underscored the importance of distribution companies maximizing value for customers through the use of vibrant, open and competitive auctions in which the widest variety of bidders participate in the bid process. Commonwealth Electric Company, D.T.E. 03-69, at 7 (2004); Boston Edison Company, D.T.E. 03-112, at 8-9 (2004); Cambridge Electric Light Company, D.T.E. 02-76, at 8-9 (2003). This principle is no less important in the context of Basic Service supply solicitations, in order to ensure that the Companies identify and secure the lowest cost supply option based on a robust and competitive set of bids.

In addition, wholesale competitive suppliers provided bids to the Companies for Basic Service pursuant to an agreement with the Companies that their bids would be expressly treated in a confidential manner.² The Department's precedent on protecting competitively sensitive price terms recognizes such agreements between distribution companies and wholesale suppliers and allows such terms to be protected from public disclosure for a reasonable period of time. The Berkshire Gas Company et al., D.P.U 93-187/188/189/190, at 20 (1994). Disclosure of such competitively sensitive information would be detrimental to NSTAR Electric's customers who stand to benefit from the Companies' ability to minimize the price paid for Basic Service power.

² This specific issue has most recently arisen in the Department's proceeding regarding NSTAR Electric's Proposed Basic/Default Service rates, approved by the Department on July 1, 2006. In that proceeding CLC sought to receive confidential bid information. NSTAR Electric opposed this request and several wholesale suppliers, including Constellation Commodities Energy Group, Inc., FPL Energy Power Marketing, Inc., TransCanada Power Marketing Ltd. and Semptra Energy Trading Corporation, each requested that the bid information associated with the NSTAR Electric Basic Service procurement process remain confidential in the Department's proceeding.

For these reasons, the Department should provide protective treatment for these attachments by allowing this Motion for a Protective Order pursuant to G.L. c. 25, § 5D.

IV. CONCLUSION

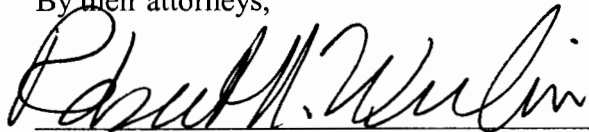
The Company respectfully requests that Attachment DTE-5-8, Attachment AG-3-1 and Attachment AG-5-2(b) be kept confidential, not be placed in the public docket and be disclosed only to the Department and the Attorney General. This approach will allow the Department and appropriate parties to the proceeding access to the requested information, while ensuring that proprietary, confidential and sensitive market information remains protected and that the integrity of the Basic Service procurement process remains intact.

WHEREFORE, for the reasons set forth herein, the Companies respectfully request that the Department allow the Companies' Motion for a Protective Order.

Respectfully submitted,

**BOSTON EDISON COMPANY,
CAMBRIDGE ELECTRIC LIGHT COMPANY
COMMONWEALTH ELECTRIC COMPANY
CANAL ELECTRIC COMPANY**

By their attorneys,

A handwritten signature in black ink, appearing to read "Robert N. Werlin", is written over a horizontal line.

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Dated: August 3, 2006